

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Western District of New York

John-tel Douglas Scharborough

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.
 If the names of all the plaintiffs cannot fit in the space above,
 please write "see attached" in the space and attach an additional
 page with the full list of names.)

-v-

Case No.

25cv6186 MAV

(to be filled in by the Clerk's Office)

JURY TRIAL: Yes No *Elmira Police department*

Defendant(s)

(Write the full name of each defendant who is being sued. If the
 names of all the defendants cannot fit in the space above, please
 write "see attached" in the space and attach an additional page
 with the full list of names. Do not include addresses here.)



COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

John-Tel D. Scharborough

0023835

Chemung County Jail

211 Williams Street

Elmira

NY

14901

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Elmira Police Department
OFFicer(s)Elmira Police Department
317 E. church st.

Elmira NY 14901

City

State

Zip Code

 Individual capacity Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

J. Baer
OFFicer of EPD
N/SElmira Police Department
317 E. church street

Elmira NY 14901

City

State

Zip Code

 Individual capacity Official capacity

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Defendant No. 3

Name _____

Job or Title (*if known*) _____

Shield Number _____

Employer _____

Address _____

*City**State**Zip Code* Individual capacity Official capacity

Defendant No. 4

Name _____

Job or Title (*if known*) _____

Shield Number _____

Employer _____

Address _____

*City**State**Zip Code* Individual capacity Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*): Federal officials (a *Bivens* claim) State or local officials (a § 1983 claim)**B.** Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th Amendment 5th Amendment + 8th Amendment Rights

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

*I Dont Know the name of officer who Kicked me in face
Video Footage/Statements given by officer*

5th Amendment Right: cruel and unusual punishment.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (*explain*) Chemung County Jail

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

6-25-24@707 N.main Street Elmira New York 14901

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

none

- C. What date and approximate time did the events giving rise to your claim(s) occur?

June 26th 2024

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

False medical Reports of procedures that never happened.
inconsistencies, vague or Evasive police statements, responses + Reports
I was shot with a Glock 17 while on my back on the Bedroom floor
as well as was Struck Several times in the face and Kicked in the
face Shown on camera. Also police statement admitting to the assault.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Lacerations from being Shoved into the ground. GSW to my Right
Eyebrow. I received 2 Shots one in each arm to help with the
trauma then refused any further treatment.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I was given bills of \$20,000.00 for medical help I did not
receive. pain and suffering permit Scar on my face.
Being shot by officer and beat by other officers Suing for
4 million dollars, for medical bills, attempt murder
and assault by police officers.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a), requires that “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

 No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

 No

Do not know

If yes, which claim(s)?

the False medical procedure CT Scans of Head, Back + Chest

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

- E. If you did file a grievance: I misunderstood please forgive me

1. Where did you file the grievance?

Chemung County Jail B Dr. COSS

2. What did you claim in your grievance?

I Received no CT Scan of Head, Back, Chest.

3. What was the result, if any?

I was told I had to take it up with the ER at Arnot Hospital

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

to the Court

I requested if I may pull my guilty plea due to New Evidence and New Arguments, to prove my innocents.

F. If you did not file a grievance:

- If there are any reasons why you did not file a grievance, state them here:

DR. COSS said,

~~I was told I had to take it up with Arnot (ER) Hospital~~

- If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Todd Miller - ~~his~~ probone lawyer - Said he had a CIVIL Lawyer, still no reply
 Dr. COSS - Doctor For Chemung County Jail

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

wrote an affirmation in support of the Subsequent motion I filed

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.) Court 3-17-25

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s)

John-tel Scharborough

Defendant(s)

Elmira Police Department

2. Court (*if federal court, name the district; if state court, name the county and State*)

County Court

3. Docket or index number

70346-24

4. Name of Judge assigned to your case

Honorable Judge Rich

5. Approximate date of filing lawsuit

1-3-25

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

—

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

Requested a packet from buffalo then

I sent to attorney Todd Miller requested them back still havent seen or heard from him since

1-13-25 (Today is wed. march 12, 2025)

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IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

Wed, March 12th, 2025

Signature of Plaintiff

John-Tell Scarborough

Printed Name of Plaintiff

John-Tell Scarborough

Prison Identification #

0023835 - 200-31

Prison Address

*211 Williams Street**Elmira**NY**14901*

City

State

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

4. You must notify the Clerk's Office and all defendants (or their attorneys) immediately of any address changes. Failure to do so may result in dismissal of your action pursuant to Local Rule of Civil Procedure 5.2(d).
5. The Clerk of Court will not file your complaint unless it conforms to these instructions pursuant to Local Rules of Civil Procedure 5.2.
6. If there is more than one plaintiff, each and every plaintiff must sign the complaint individually and must apply separately for permission to proceed *in forma pauperis*, if applicable. After the complaint has been filed, one plaintiff may submit a document to be filed on behalf of all the plaintiffs only if the other plaintiffs have signed a statement giving that plaintiff the authority to submit documents on all plaintiffs' behalf. Otherwise, each plaintiff must sign every document submitted to the Court.

VII. MAILING INSTRUCTIONS

Finally, mail or bring all of the papers to one of the following addresses:

United States District Court Clerk
U.S. Courthouse
100 State Street
Rochester, New York 14614-1387
(585) 613-4000

United States District Court Clerk
200 U.S. Courthouse
2 Niagara Square
Buffalo, New York 14202-3498
(716) 551-1700

Please forgive me for I
tryed to fill this out as
properly as I could.
Sincerely,
John Miller

And my probone Todd Miller
lawyer hasent helped with the officers
in the video. I know J. Baer because of
his statement admitting to striking me
several times in the narrative supplement.

Statement of Claims: Section - IV

3-13-28

On June 25th, 2024 unaware that police were yelling my name as I sat in a Recliner Chair Listening to music I created, on a Stereo, I began to listen to see + listen how it sounded. As I was listening to my music I paused "woodcarving" my walking stick, as I began searching for clothes that belonged to me. I threw the clothes in front of the door. Next thing I knew as I go sit back down the Bedroom Door Bursts open Not knowing who or what is at the door I swung my walking stick at the wall in which shattered into pieces. Noticing it was the police I froze for a split second then was being fired at with Tazers. I was successfully Tazed twice. Once, I fell on the bed (body locked) then stood up and then was tased again where I fell to the bedroom floor. While being Tased I was being approached by an Officer (the one who shot me) and he jumps back and says he has a knife Drop the knife, My body was locked because I was trying to. the Officer switches from Non-lethal to his Glock 17 and said drop the knife a Tazer went off then he shot me in my face and my head swung backwards and hit the Bedroom Floor.

2.

Everything went black then I found myself in fear of my life to the point I Jumped up^{my back}^{was} facing Officers Broke out an entire Window and threw my body (back first) out the Window where I fell on to a Brute like Garbage Can with wheels rolled off of it began to run towards an Officer asking him to help me yet I was tackled from beyond my back. Face gained several lacerations due to the officer grinding my face into the gravel. Then multiple officers dog piled on me while another officer was (J. Baer) Stricking me Several times in my face and another officer walks up to the dog pile and kicks me in the face then looks at his Shoe and saw blood on it. I was not ~~not~~ read my Miranda Right and there was no warrant for Drane with No Exigent Circumstance(s).

No you're coming with me, EMT Showed up, the lady looked at me & said Went to the hospital (Arnot) got one shot in both my arms for I was in a Trauma State of mind I began to calm down and said I know my rights I don't want any medical help. They tried to take my Clothes Received Sleep medicine & medicine for Post traumatic Concussion syndrome. I also take PTSD Meds.

3.

I, John Tel D. Scharborough the Defendant through my undersigned Counsel, respectfully move this Honorable Court for Continuance. The Details are mentioned in my letter to ~~Judge~~ the Honorable Judge Rich. and are listed below:

Was not read my Miranda Rights.

Warrantless entry of Apartment with no exception of an Exigent Circumstance.

Violation of the 8th Amendment in which prohibits Cruel and Unusual punishment, 6-26-24 in which Allegations are Supported on Video footage-body camera-as well as my 5th Amendment rights in which applies the privilege against Self Incrimination is not an adjunct to the ascertainment of truth.

That privilege, like the Guarantee of the 1st Amendment was added to the Constitution out of distrust of governmental power.

- Justice JOHN Marshall Harlan the 2nd.

Right2fair Trial preparation - allowing the defence access to Evidence, witness statements and other relevant Material Transparency - promotes transparency in legal proceedings by requiring the prosecution to disclose its case details, Reducing surprises during trial.

Reason for Continuance:

Right to all Evidence - Videos (All) Photos(All)

Photo CT Scan + incident statements + All Medical Reports. Effective Representation - adequate time to prepare for trial.

Revised 03/06 WDNY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)**

All material filed in this Court is now available via the **INTERNET**. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION

A. Full Name of Plaintiff: **NOTE:** If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.

John-tel Scharborough
John-tel Douglas Scharborough

-vs-

B. Full Name(s) of Defendant(s) **NOTE:** Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.

- | | |
|-----------------------------|----------|
| 1. Elmira police department | 4. _____ |
| 2. Officer J. Bayer | 5. _____ |
| 3. _____ | 6. _____ |

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT

All of these sections MUST be answered

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

- A. Basis of Jurisdiction in Federal Court: Attempt murder by police officer,
Assault and Battery by police officers.

State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

- B. Reason for Venue in the Western District: is because my case involves police/investigators in violation of my 8th Amendment Rights.

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

- C. Nature of Suit: 4th amendment + 8th Amendment violations
Face injury from GSW, medical Bills Both of \$19,000.00 and
\$21,000.00

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name of First Plaintiff: _____

Present Address: _____

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: To list additional defendants, use this format on another sheet of paper.

Name of First Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

Name of Second Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

Name of Third Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check those statements which apply):

Dismissed (check the statement which indicates why it was dismissed):

By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

plaintiff

defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (*date of the incident*) _____, defendant (*give the name and (if relevant) the position held of each defendant involved in this incident*) _____

did the following to me (*briefly state what each defendant named above did*): _____

The federal basis for this claim is: _____

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes*:

B. SECOND CLAIM: On (*date of the incident*) _____,
defendant (*give the name and (if relevant) position held of each defendant involved in this incident*) _____

did the following to me (*briefly state what each defendant named above did*): _____

The federal basis for this claim is: _____

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes*:

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Do you want a jury trial? Yes No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Signature(s) of Plaintiff(s)

State of New York

Chemung County

3-19-25
(on and off phone)

The people of the State of New York

-AGAINST-

John-Tel SCHARBOROUGH - Defendants

Notice of Plea withdrawal due to ineffective Counsel
indictment number - 70346-24

To the Court,

please take Notice, that I John-tel SCHARBOROUGH in this matter is Submitting this affirmation to support ineffective Counseling. Feeling pressured to taking a Guilty plea offer by being threatened a lengthy prison Sentence, due to Subsequent discovery provided by ineffective assistance from the Defendants Attorney; Listed Below are the Grounds for this motion.

1. A Brady violation where the defendants Attorney allegedly failed to disclose evidence that could have aided SCHARBOROUGH's Defence.

A. proof of ^{No} Exigent Circumstance

B. Warrants to Enter the residence & Search the residence without ^{No} ~~Beyond~~

C. To Prove ~~without~~ Reasonable doubt that the defendant did So intentionally committed the crime the defendant is being accused of.

D. Attorney provided A witness's medical paperwork Violation of Hippa.

STATE OF NEW YORK
COUNTY COURT : COUNTY OF CHEMUNG

THE PEOPLE OF THE STATE OF NEW YORK
Plaintiffs,

-against-

JOHN-TEL SCHARBOROUGH,
Defendant.

RESPONSE TO
OMNIBUS MOTIONS

IND. NO. 70346-24

The People, as and for their response to defendant's Omnibus Motions, state as follows:

DEFENDANT'S REQUEST FOR BILL OF PARTICULARS, DISCOVERY
DEMAND, AND REQUEST FOR BRADY MATERIALS

The discovery materials provided to defendant in accordance with the People's obligation under CPL 245 adequately set forth the particular factual information of this case as required by CPL 200.95. These materials, especially the police reports, fully satisfy the statutory requirements outlined in CPL 200.95 and provide sufficient information to give the defendant adequate notice in order to enable him to properly prepare and conduct his defense (*People v Iannone*, 45 NY2d 589, 594 [1978]). Notably, "the prosecutor shall not be required to include in the bill of particulars matters of evidence relating to how the People intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars" (CPL 200.95[1][a]). In any event, the discovery materials turned over by the People fully answer each and every of the items laid out in defendant's demand. Therefore, the People decline to respond to defendant's request for a bill of particulars.

The People have satisfied their disclosure obligations pursuant to CPL Article 245 and

Bill of particulars Denied

filed a Certificate of Compliance accordingly. The prosecution's discovery obligations are complete, subject to their continuing duty to supplement their disclosures as the case may require. A valid certificate of compliance and statement of readiness has been filed. The People will continue to abide by their ongoing obligation to turn over any additional discoverable material.

note

Additionally, the People will comply with the dictates of *Brady v Maryland* and its progeny as incorporated in Article 245 of the Criminal Procedure Law, including CPL 245.20 §§ (1)(k), (l), (p), and (q). The People are not aware of any exculpatory evidence in connection with this case, other than any such material that may be contained within the discovery materials previously provided.

DEFENDANT'S REQUEST FOR SANDOVAL HEARING

The People consent to a *Sandoval* hearing pursuant to *People v Sandoval*, 34 NY2d 371 (1974). At that time, and in compliance with the applicable statutory deadlines, the People will outline defendant's prior convictions or evidence of the prior commission of specific criminal, vicious, or immoral acts that the People intend to use to impeach a defendant's credibility (*People v Sandoval*, 34 NY2d 371, 374 [1974]). "[E]vidence should be admitted if it will have material probative value on the issue of defendant's credibility, veracity or honesty on the witness stand" (*id.* at 376). Defense counsel is in receipt of defendant's criminal record. At the applicable time, the People will make a specific application to the Court outlining any additional applicable prior vicious or immoral acts with which they would seek to use as impeachment material should defendant choose to testify.

HUNTLEY APPLICATION - Had 2024 Nov? Judge Rich

Defendant's motion to suppress his statements should be denied following a

In attempting to have the indictment dismissed, the defense is required to demonstrate a “clear showing that the evidence presented before the Grand Jury, if unexplained and un-contradicted, would not warrant a conviction by a trial jury.” See *People v Scott*, 131 AD2d 893,894 (2d Dept 1987). Additionally, the defense must overcome the presumption of validity that attaches to Grand Jury Indictments. See *People v Jackson*, 32 AD2d 590 (3d Dept 1968). That competing inferences may be drawn from the evidence is irrelevant so long as the Grand Jury could rationally have drawn the guilty inference. See *People v Deegan*, 69 NY2d 976 (1987). The defense has made no such showing. When viewed in the light most favorable to the People the evidence adduced before the Grand Jury was sufficient to establish a prima facie case of the crimes alleged. See *People v Jennings*, 69 NY2d 103, 114 (1986).

Likewise, the Court of Appeals has held that the test for defectiveness is not based on mere error, but rather, “[t]he statutory test is very precise and very high: ‘impairment of integrity’ of the Grand Jury process” (*People v Darby*, 75 NY2d 449, 455 [1990]). As such, a court may only dismiss an indictment if it “fails to conform to the requirements of [CPL article 190] to such degree that the integrity thereof is impaired and prejudice to defendant may result” (CPL 210.35[5]; *People v Thompson*, 22 NY3d 687, 699 [2014]; see also CPL 210.20[1] [c]; *People v Hill*, 5 NY3d 772, 773 [2005]). “The ‘exceptional remedy of dismissal’ is available in ‘rare cases’ of prosecutorial misconduct upon a showing that, in the absence of the complained-of misconduct, the grand jury might have decided not to indict . . . defendant. In general, this demanding test is met only where the prosecutor engages in an ‘over-all pattern of bias and misconduct’ that is ‘pervasive’ and typically willful, whereas isolated instances of misconduct, including the erroneous handling of evidentiary matters, do not merit invalidation of the indictment” (*Thompson*, 22 NY3d at 699 [internal citations omitted]; see also *People v*

- 1A) the police conducted a warrantless entry on to property to observe the interior of the property using a drone, (To use any technology to observe the interior of a property the defendant must be committing a felony offence.) From a adjacent Area Constituting a Fourth Amendment Violation. U.S. v. Jones 565 U.S. 400(2012)
- 1B) Warrantless entry is presumed unconstitutional in which must have proof of consent to enter a residential dwelling, which raises concern about the constitutionality of the police's actions and violations of the defendant's constitutional rights. United States v. Montoya de Hernandez 473 U.S. 531 (1985) - Fourth Amendment And Eighth Amendment Rights -
- 1C) No evidence of exigent circumstances to justify a warrantless search of 707 N. Main Street Apartments. Officers had ample time to secure a warrant before conducting a warrantless search and seizure due to no immediate threat to public safety or risk of destruction of evidence.
- 1D) No proof of the defendant being read his Miranda Rights.

2. Ineffective Assistance of Counsel for failing to provide at a Repeated time All of the Discovery, Such as Video footage, Grand Jury minutes, Huntley minutes from July 11th 2024 and the date the Huntley hearing took place on at one time.

A. ~~Within 9 months only seeing Attorney at Court other than one # different accounts at the County Jail.~~

B. Inseffecient time to look over video footage to properly be prepared at trial, as well as statement reports.

3. Ineffective assistance of Counseling to disclose inconsistencies in police reports such as in the Narrative Supplement Reports and Vague or evasive Responses that are given in the Grand Jury minutes that Shows proof of the defendant Clearly being violated of his Fourth Amendment and Eighth amendment Rights. in which is clearly shown on Video. Mincey v. Arizona 437 U.S. 393-94 (1978).

A. Evasive and Vague Responses from Officers during the Grand Jury when asked about how a Tazer Fully Operates, stating no successful Taze then to be described successful in the mist to Calberate with what was being Said to DA Weetmore.

B. Video shows defendant head Fall backwards while on the Floor as a lethal Round has been fired by officer. While the defendant was still Constricted by Tazer Electricity.



(F) Violation of 8th Amendment right, Cruel and unusual punishment.

- (1) Tazers that hits there Target successfully, makes the Targets entire body lock up in meaning of being not able to move because of the Constriction the Electric current Causes the body to React to.
- (2) Officer approaches the defendant while he was Successfully being Tazed, noticed a knife in his Right hand and begins to shout out "Drop the Knife". While the defendant Johnel Scharborough was still laying on his back ~~enduring~~ being tazed.
- (3) Officer ~~had~~ Switches from non lethal to lethal and Fires a shot, a deadly shot Towards the defendant's Head. Video footage Shows the Gun being shot and the defendant's head goes backwards while the Defendant is still on the FLOOR Constricted by the Tazers electricity.
- (4) The defendant breaks out the bedroom window Screaming and throws himself out the window on to A Brute (Blue) Garbage can with wheels
- (5) the Defendant as shown on video the officers Dog piles on to the defendant as two other officer Strike the defendant ~~on~~ with a Kick and Several punches